

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TERRANCE J. SHAW,

Plaintiff,

v.

KIMBERLY METZEN,

Defendant.

ORDER

Case No. 13-cv-847-wmc

This case is severed from 12-cv-497-wmc. On May 30, 2014, this court entered an order directing plaintiff Terrance Shaw to submit by June 27, 2014 either the \$350 filing fee or a properly supported motion for leave to proceed without prepayment of the filing fee along with a certified copy of his inmate account statement for the six-month period preceding the date of his complaint (July 12, 2012 through at least January 12, 2012). Now plaintiff has filed a letter requesting to pay the entire \$350 filing fee for this case with his release account funds. (Dkt. #8).

Although it is commendable that plaintiff is taking responsibility for paying his entire filing fee promptly, he cannot use his release account funds in the manner he requests. The language in 28 U.S.C. § 1915(b)(1) suggests that prison officials are required to use a prisoner's release account to satisfy an *initial partial payment* if no other funds are available. *Carter v. Bennett*, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005). However, with the exception of initial partial payments, federal courts lack the authority to tell state officials whether and to what extent a prisoner should be able to withdraw money from his release account. Because plaintiff cannot use his release account funds to pay the entire balance of the \$350 filing fee, his motion will be denied.

In his letter request, plaintiff also asks for an extension of time. I will grant plaintiff's request and extend his deadline to July 21, 2014 to either make the \$350 payment or submit a properly supported motion for leave to proceed without prepayment of fees and a certified copy of his six-month trust fund account statement.

ORDER

IT IS ORDERED that:

1. Plaintiff Terrance J. Shaw's request for use of his release account funds to pay the *entire* filing fee in this case (Dkt. #8) is DENIED.
2. Plaintiff's request for an extension of time (Dkt. #8) is GRANTED. Plaintiff may have until July 21, 2014, to either pay the \$350 filing fee or submit a properly supported motion for leave to proceed without prepayment of fees and a certified copy of his six-month trust fund account statement for the period beginning approximately January 12, 2012 and ending approximately July 12, 2012.

Entered this 27th day of June, 2014.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge